



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO INC. SECURITIES
LITIGATION

: 07 MDL 1902 (JSR)

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KENNETH M. KRYS, et al.,

Plaintiffs,

: 08 Civ. 3065 (JSR)

: 08 Civ. 3086 (JSR)

-v-

CHRISTOPHER SUGRUE, et al.,

Defendants.

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KENNETH M. KRYS, et al.,

: 10 Civ. 3594 (JSR)

Plaintiffs,

-v-

DEUTSCHE BANK SECURITIES, INC., et al.,

Defendants.

ORDER

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JED S. RAKOFF, U.S.D.J.

Pending before this Court are the motions of PricewaterhouseCoopers LLP ("PwC"); Credit Suisse Securities (USA) LLC ("Credit Suisse"); Merrill Lynch, Pierce, Fenner & Smith, Incorporated, as successor-by-merger to Banc of America Securities LLC ("BAS"); Deutsche Bank Securities, Inc. ("DBSI"); Mayer Brown LLP, Joseph Collins, Paul Koury, Edward Best (collectively, "Mayer Brown"); Grant Thornton LLP ("Grant Thornton") and Mark Ramler for summary judgment on the remaining claims against them in the above-captioned cases. The motions are limited in scope, and by agreement of the parties, the moving

defendants have "reserved their right" to move for summary judgment on other grounds.

On October 17, 2012, Special Master Daniel J. Capra issued a Report and Recommendation recommending that the motions be granted with respect to the claims asserted by plaintiffs on behalf of PlusFunds and denied with respect to claims asserted on behalf of SPhynX Managed Future Funds ("SMFF"). As an alternative to his recommendation denying summary judgment as to the SMFF claims, the Special Master also recommended that, should the Court reverse him on this issue, it should grant summary judgment to all moving defendants except Mayer Brown, Grant Thornton, and Ramler, for whom there remain issues of material fact sufficient to defeat summary judgment.

On November 9, 2012, the plaintiffs and defendants timely filed their objections to the R&R, and, after further briefing, the Court heard oral argument on December 3, 2012. After full consideration of the parties' briefs and oral arguments, and having reviewed the entire matter de novo, the Court disagrees in part with the Special Master's Report and Recommendation and concludes, for reasons to be explained in a forthcoming written opinion, that the Special Master's recommendation-in-the-alternative is the better view: the motions for summary judgment regarding SMFF claims should be granted to

all moving defendants except Mayer Brown, Grant Thornton, and Ramler. That said, the Court does agree with the remainder of the Special Master's report, and thus agrees that all defendants are entitled to summary judgment as to those claims brought on behalf of PlusFunds. Final judgment as to the fully-dismissed defendants will not issue, however, until the Court issues its written opinion setting forth the reasons for this ruling.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
December 26, 2012